

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MODOC

E. R. Tyeryar and Hattie E. Tyeryar,
his wife,

Plaintiffs

vs

Mrs. M. L. Benner, S. V. Street and
Katherine Street, his wife, W. B.
Bordwell and Letitia Bordwell, his wife,
L. M. Bordwell, B. H. Simson and Barbara
Simson, his wife, Walter H. Hussa and
Elizabeth F. Hussa, his wife, F. E. Bush
and Bessie L. Bush, his wife, Guy W. Gooch,
and Rhoda A. Gooch, his wife,
A. L. Baty and Rose Baty, his wife, Kate
M. Street, formerly Kate M. Lester, Daniel
House, Martin Espil and Lucie Espil
his wife, Geo. J. Wentzel and Mary E.
Wentzel, his wife, Alfred K. Sweet and
Marion F. Sweet, his wife, and O. S. Gooch,
Arthur W. Stiner and Maude Stiner, his wife,
Wm. A. McCombs, Jesse W. Stiner and Pearl L.
Stiner, his wife, John Doe, Richard Roe, Jane
Doe, Annie Dow, The John Doe Company, a cor-
poration, and The Richard Roe Company, a cor-
poration,

Defendants.

No. 3101
Decree

The above entitled cause having been referred to the Division of Water Resources of the Department of Public Works of the State of California, as referee, by an order of this Court, dated April 25, 1930, and made under authority of law as conferred by Section 24 of the Water Commission Act of the State of California, Statutes 1913, Chapter 586, as amended, and said referee having made its investigation, the parties hereto having thereafter entered into a written stipulation and agreement, said stipulation being comprised of two identical documents, each of said documents being signed by different parties and said documents comprising said stipulation being marked Part 1 and Part 2, respectively, said stipulation providing that said Court might enter its decree in accordance with the provisions of said stipulation, said parties having further stipulated that findings of fact and conclusions of law be waived, said Division, as referee, having filed its

report and a proposed decree herein, which report and proposed decree embody said stipulation of the parties, the time for filing exceptions to said report of referee as provided in said Section 24 of the Water Commission Act having expired, and exceptions having been filed thereto and duly considered, and it appearing that said parties who have entered into said stipulation are the owners of the rights as agreed upon and set forth therein, and it further appearing as follows:

- (a) Letitia Bordwell and L. M. Bordwell are one and the same person.
- (b) W.B. Bordwell and Wm. Bordwell are one and the same person.
- (c) Walter H. Hussa and W. H. Hussa are one and the same person.
- (d) Kate M. Street, formerly Kate M. Lester, and Katherine Street are one and the same person.
- (e) Daniel House has died since the commencement of this action and Bertha Davis, an heir to his estate, is the administratrix of said estate.
- (f) The Estate of Sam Cressler has succeeded to the interests of defendants Geo. J. Wentzel and Mary E. Wentzel involved in this action.
- (g) Gladys L. Vernon has succeeded to the interests of defendant O. S. Gooch, involved in this action.
- (h) Guy W. Gooch, Gladys L. Vernon, Belva A. Sevier, Kate E. Gooch, and Roy Gooch are heirs of the Estate of Gertrude Gooch.
- (i) Defendants Arthur J. Stiner and Maude Stiner, Wm. A. McCombs, Jesse M. Stiner and Pearl L. Stiner have no interest in any water right from Deep Creek and its tributaries and have no interest in any of the lands involved in said action.

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS, TO-WIT:

(1st) There is in said Modoc County a natural stream of water known as and called "Deep Creek", which said creek arises on the eastern slope of the Warner Range of mountains in said Modoc County, State of California, and flows thence in a general easterly direction between well defined banks in a well defined channel to, upon, and across some of the lands of some of the parties to this action, which lands are hereinafter described, thence into Middle Alkali Lake and has so flowed since the memory of man.

(2nd) The parties plaintiff and parties defendant in the above entitled action are the owners of the lands described in their respective pleadings, and as amended and pleaded by them; the allotments of water from said Deep Creek and its tributaries as hereinafter set forth are for use upon the acreages described in Schedule 1 hereunto annexed and made a part hereof; the respective parties are the owners of the acreages set forth under their respective names and of all the lands embraced in the legal subdivisions in said Schedule 1; and said lands are depicted on the map herein referred to as the "Division of Water Resources Map", which map was prepared by the Division of Water Resources of the Department of Public Works of the State of California from its surveys made in May 1930, which map is entitled, "Deep Creek and Tributaries Showing Diversion System and Irrigated Land, Modoc County, California," which map is dated 1930, and has been filed herein.

(3rd) The parties plaintiff and the parties defendant are the owners of, or interested in, the ditches, conduits, pipe lines and other means of diversion described in their respective pleadings, and as amended and pleaded by them, and as depicted on said Division of Water Resources Map and are entitled to divert water, as hereinafter set forth, through said means of diversion at the points of diversion depicted on said map.

(4th) The several parties named in Schedule 2 hereunto annexed and made a part hereof are entitled to rights in and to the use of the natural flow of Deep Creek and its tributaries for domestic, stock watering,

and irrigation purposes upon their respective lands as described in Schedule 1 hereof, in accordance with the priorities, the quantities of water allotted and through the ditches named as set forth in said Schedule 2; provided, however, that at all times when the flow in South Deep Creek is less than 7.00 cubic feet per second, measured at the head of the Sharp and Messier Ditch then all of such water, or as much thereof as is directly applied to beneficial use, may be diverted by Kate M. Street, F. E. Bush, and Bessie L. Bush, and Walter H. Hussa and Elizabeth F. Hussa through either the Sharp and Messier Ditch or the Dodson Ditch, said water to be prorated among said Kate M. Street, F. E. Bush and Bessie L. Bush, and Walter H. Hussa and Elizabeth F. Hussa in accordance with their respective allotments of first priority class provided in said Schedule 2 for said Sharp and Messier and Dodson Ditches.

(5th) All allotments to the owners of the Company Ditch as provided in Schedule 2 hereof are on an equal and correlative basis as to priority, and at all times when the water flowing in said ditch is inadequate to fully supply such allotments, then during the continuance of such shortage, the owners of said allotments shall divide the available water which may be flowing in said ditch in the ratios that their respective allotments in said ditch, as specified in said Schedule 2 hereof, bear to the total of their allotments in said ditch; provided, however, that the Estate of Sam Gressler is entitled to not more than 0.12 cubic foot per second during the month of May, not more than 0.08 cubic foot per second during June, not more than 0.04 cubic foot per second during July, not more than 0.02 cubic foot per second after August 1st for the remainder of the season and that after August 1st there must be flowing in said ditch more than 0.50 cubic foot per second before any water may be taken by said estate; and provided further, that F. E. Bush and Bessie L. Bush shall suffer a shortage of only fifty per cent in their allotment in said ditch, as provided in said Schedule 2, at all times when the total quantity of water flowing in said ditch measured at its intake is more than 1.00 but less than 4.40 cubic

feet per second, said allotment to F. E. Bush and Bessie L. Bush at such times to be measured at the head of their lateral from said ditch.

(6th) At all times when the quantity of water flowing in the Company Ditch measured below the Wentzell lateral is more than 0.50 but less than 1.00 cubic foot per second, then F. E. Bush and Bessie L. Bush, Kate M. Street and S. V. Street, Alfred K. Sweet and Marion F. Sweet, Guy W. Gooch and Rhoda A. Gooch, and Gladys L. Vernon shall pool their allotments in said ditch as provided in Schedule 2 hereof and shall rotate in the use of said combined allotments during each five day period at such times in accordance with the following order and time division;

Kate M. Street and S. V. Street	- 1-1/2 days
Alfred K. Sweet and Marion F. Sweet	- 1 day
F. E. Bush and Bessie L. Bush	- 1-1/2 days
Guy W. Gooch and Rhoda A. Gooch	- 2/3 day
Gladys L. Vernon	- 1/3 day

provided, however, that nothing in this paragraph shall, or shall be construed to, affect the right of A. L. Baty and Rose Baty as set forth in Schedule 2 hereof.

(7th) At all times when the quantity of water flowing in the Company Ditch measured at its intake is less than 0.50 cubic foot per second, then A. L. Baty and Rose Baty, F. E. Bush and Bessie L. Bush, Kate M. Street and S. V. Street, Alfred K. Sweet and Marion F. Sweet, Guy W. Gooch and Rhoda A. Gooch, and Gladys L. Vernon shall pool their allotments in said ditch as provided in Schedule 2 hereof and shall rotate in the use of said combined allotments in the order and in the proportion as follows:

Alfred K. Sweet and Marion F. Sweet	- 1 part
Kate M. Street and S. V. Street	- 1-1/2 parts
F. E. Bush and Bessie L. Bush	- 1-1/2 parts
Guy W. Gooch and Rhoda A. Gooch	- 2/3 part
Gladys L. Vernon	- 1/3 part
A. L. Baty and Rose Baty	- 5 parts

(7thA) Providing, however, that anything in the 6th and 7th paragraphs hereof to the contrary notwithstanding, the proportionate amount of water to be allowed to F. E. Bush and Bessie L. Bush flowing in the Company Ditch, measured below the Wentzell Lateral is less than 1.00 cubic foot per second or is less than 0.50 cubic foot per second shall not be affected by this decree.

That this paragraph is written subsequent in time to all other paragraphs of this decree and shall take precedence over paragraphs 6th and 7th.

(8th) All allotments hereinabove provided, which are within the same priority class, are equal in priority and correlative in right and at all times when the water supply available for rights within a priority class is inadequate to supply all rights and allotments within said class, then during the continuance of such shortage, the owners of such allotments shall prorate the available supply, if any, in excess of the quantity required for prior rights, in accordance with their respective allotments for that class, except as otherwise hereinbefore provided.

(9th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all allotments of water hereinbefore provided shall be for continuous usage without regard to season, except as otherwise hereinbefore provided in paragraphs (4th), (5th), (6th), and (7th); provided, however that nothing herein contained shall be construed to entitle any party to divert, at any time, a quantity of water in excess of that necessary and being put to beneficial use.

(10th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all allotments of water hercinbefore provided shall be diverted from the Deep Creek stream system at the present points of diversion of the respective ditches, as said points of diversion are described in Schedule 3 hereunto annexed and made a part hereof; and the points of measurement of all allotments of water hercinbefore provided shall be at the respective points of diversion from said Deep Creek and its tributaries, except as otherwise hereinbefore provided in paragraph (5th).

(11th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the term "natural flow," as herein used, shall be construed to designate such flow as will naturally occur at any given point in a stream from the run-off of the watershed which it drains, from springs which naturally contribute to the stream, from seepage, and from waste and return flow from dams, conduits, and irrigated lands; as distinguished from released stored water and from "foreign water" directly conveyed to a stream from another watershed.

(12th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the term "available water supply of Deep Creek," as herein used, shall be construed to designate the total amount of water available for diversion by all of the various conduits diverting from said Deep Creek, i. e., the water crop of Deep Creek plus all waste and return flows to the stream system, less all channel losses in the stream system; said "available water supply of Deep Creek" at any given time to be determined by combining the total of all quantities of water being diverted from the stream system with the flows of Deep Creek or its branches immediately below all diversions at the time.

(13th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Division of Water Resources of the Department of Public Works of the State of California, as now or hereafter constituted, or its successor in the administration of the Water Commission Act, shall supervise diversions from Deep Creek and its tributaries through the agency of a water master, whenever necessity for such

water master service is found to exist by said Division, to insure strict adherence to the provisions of this decree, and that all costs and expenses of such water master service shall be borne by the parties hereto, said costs and expenses to be apportioned among said parties in accordance with the method of apportioning the costs of water distribution by water master provided in Section 37f of the Water Commission Act of the State of California.

(14th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the owners of each ditch through which water is diverted from Deep Creek and its tributaries as herein provided, shall install, under the supervision of an engineer appointed by the Division of Water Resources, such permanent diversion works, headgates and measuring devices in their respective ditches as shall be required and approved by said Division; such installations to be made prior to October 1, 1933, or such later date as may be ordered by the above entitled Court. The several ditch owners shall furnish all necessary labor and materials for the construction and installation of said diversion works, headgates and measuring devices in their respective ditches, and the cost of supervision as herein provided shall be borne by the parties hereto, in the ratios that their respective maximum continuous flow allotments provided in Schedule 4 hereunto annexed and made a part hereof, bear to the total of such maximum continuous flow allotments provided in said Schedule 4.

(15th) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each and every party to this action, his or her agents, successors, grantees and assigns, be, and they are hereby perpetually enjoined and restrained from doing anything in violation of the terms or provisions of this decree, or diverting any water from said Deep Creek and its tributaries at any time in violation of the terms hereof, or from doing anything that will obstruct or interfere with any other right in this decree adjudged and decreed.

(16th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that action against Arthur W. Stiner and Maude Stiner, Wm. A. McCombs, and Jesse W. Stiner and Pearl L. Stiner be dismissed.

(17th) FINALLY IT IS ORDERED, ADJUDGED, AND DECREED that each party hereto shall pay his own costs and that the balance of the amount due from the parties hereto to said Division of Water Resources for expenses incurred as referee, as set forth in the report of referee on file in this action shall be borne by the following parties in the following proportion:

<u>Name</u>	<u>Portion of Expense</u>
A. L. Baty and Rose Baty	\$ 162.04
Mrs. M. L. Benner	39.38
W. B. Bordwell and Letitia Bordwell	31.88
F. E. Bush and Bessie L. Bush	63.76
Estate of Sam Cressler	6.00
Estate of Daniel House	37.50
Martin Espil and Lucie Espil	29.38
Guy W. Gooch and Rhoda A. Gooch	19.25
Estate of Gertrude Gooch	24.38
Valter H. Hussa and Elizabeth F. Hussa	161.29
B. H. Simson and Barbara Simson	30.00
Kate M. Street	124.90
Kate M. Street and S. V. Street	118.02
S. V. Street	103.15
Alfred K. Sweet and Marion F. Sweet	39.01
W. R. Tyeryar and Hattie E. Tyeryar	161.29
Gladys L. Vernon	1.87
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TOTAL	\$1,153.10

and said parties shall pay said apportionments set forth in this paragraph to the Clerk of the Court, forthwith, said Clerk to transmit said sums when paid to said Division of Water Resources, P. O. Box 584, Sacramento, California.

Done in open court this 25th day of January, 1934.

F. M. Jamison
Judge of Said Superior Court

SCHEDULE 1

DESCRIPTION OF LANDS IRRIGATED FROM
DEEP CREEK STREAM SYSTEM

A. L. Baty and Rose Baty

Tract No. 92

7.5 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 8, T 42 N, R 16 E, M.D.B. & M.
38.8 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 8, T 42 N, R 16 E, M.D.B. & M.
40.0 acres in $NE\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 8, T 42 N, R 16 E, M.D.B. & M.
40.0 acres in $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
39.2 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
165.5 acres - Total

Mrs. M. L. Benner

Tract No. 106

25.2 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
55.9 acres in Lot 4 of Sec. 15, T 42 N, R 16 E, M.D.B. & M.
81.1 acres - Total

W. B. Bordwell and Letitia Bordwell

Tract No

37.4 acres in $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 10, T 42 N, R 16 E, M.D.B. & M.
28.7 acres in $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 10, T 42 N, R 16 E, M.D.B. & M.
11.2 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 10, T 42 N, R 16 E, M.D.B. & M.
54.9 acres in Lot 3 of Sec. 10, T 42 N, R 16 E, M.D.B. & M.
132.2 acres - total

F. E. Bush and Bessie L. Bush

Tract No

19.3 acres in $SW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
8.5 acres in $NW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
12.9 acres in $NW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
2.2 acres in $NW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
18.4 acres in $SW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
19.3 acres in $SW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
80.6 acres - Total

Estate of Sam Gressler

Tract No

1.5 acres in $SW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
1.5 acres - Total

Estate of Daniel House

Tract No

19.3 acres in $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
12.1 acres in $NW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
18.2 acres in $NE\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
49.6 acres - Total

Martin Esail and Lucie Esail

Tract No 108

5.6 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
19.6 acres in $SW\frac{1}{4}$ $SW\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
5.3 acres in $NE\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 19, T 42 N, R 16 E, M.D.B. & M.
0.8 acre in $NW\frac{1}{4}$ $NW\frac{1}{4}$ Sec. 19, T 42 N, R 16 E, M.D.B. & M.
31.3 acres - Total

SCHEDULE 1 (Cont'd)

Guy W. Gooch and Rhoda A. Gooch

Tract No

7.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 9.7 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 17.4 acres - Total

Estate of Gertrude Gooch

Tract No

1.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 7, T 42 N, R 16 E, M.D.B. & M.
 0.5 acre in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 8, T 42 N, R 16 E, M.D.B. & M.
 3.3 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 26.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
 31.9 acres - Total

Walter H. Hussa and Elizabeth F. Hussa

Tract No

38.8 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 20.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 40.1 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 0.4 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 38.1 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 0.4 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 19.3 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 20.2 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 36.3 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 28.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 242.4 acres - Total

B. H. Simson and Barbara Simson

Tract No

39.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 35.1 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 74.1 acres - Total

Mrs. Kate M. Street

Tract No

40.2 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 39.3 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 8.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 36.6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 20, T 42 N, R 16 E, M.D.B. & M.
 38.8 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 20, T 42 N, R 16 E, M.D.B. & M.
 163.7 acres - Total

Kate M. Street and S. V. Street

Tract No

24.1 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 25.7 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 28.9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 2.0 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 80.7 acres - Total

S. V. Street

Tract No

39.5 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
 29.9 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
 39.9 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
 39.8 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.
 38.5 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9, T 42 N, R 16 E, M.D.B. & M.

SCHEDULE 1 (Cont'd)

S. V. Street (Cont'd)

(no control)

37.7 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 10, T 42 N, R 16 E, M.D.B. & M.
 40.0 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 10, T 42 N, R 16 E, M.D.B. & M.
 3.9 acres in Lot 4 of Sec. 10, T 42 N, R 16 E, M.D.B. & M.
 1.8 acres in Lot 1 of Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 37.5 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 39.9 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 38.4 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
386.8 acres - Total

Alfred K. Sweet and Marion F. Sweet

Tract No

24.3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M. D.B. & M.
 27.2 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D. B. & M.
 11.5 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 18, T 42 N, R 16 E, M.D.B. & M.
63.0 acres - Total

E. R. Tyeryar and Hattie E. Tyeryar

Tract No

39.1 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 39.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 8.8 acres in Lot 2 of Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 15.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 39.9 acres in Lot 3 of Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 38.6 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 15, T 42 N, R 16 E, M.D.B. & M.
 40.1 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 38.0 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 37.0 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
 38.2 acres in NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 16, T 42 N, R 16 E, M.D.B. & M.
334.9 acres - Total

Gladys L. Vernon

Tract No

0.4 acre in NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 1.5 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17, T 42 N, R 16 E, M.D.B. & M.
 0.3 acre in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8, T 42 N, R 16 E, M.D.B. & M.
2.2 acres - Total

1937

SCHEDULE 2

PRIORITIES AND ALLOTMENTS TO VARIOUS DITCHES FROM
DEEP CREEK AND ITS TRIBUTARIES

Diversion No. on Division of Water Resources Map	Name of Ditch	Priority Class	Allotment: Cubic Feet Per Sec.	Acreage: to be Supplied	Name of Owner
		First	0.05	2.2	Gladys L. Vernon
		First	0.16	2.2	F. W. & Bessie L. Bush
		First	4.32	165.5	A. L. & Rose Baty
		First	1.04	63.0	Alfred K. & Marion F. Sweet
1	Company	First	2.08	80.7	Kate M. & S.V. Street
		First	0.34	17.4	Guy V. & Rhoda A. Gooch
		First	0.65	31.9	Est. of Gertrude Gooch
		First	0.16	1.5	Est. of Sam Cressler
3 and, or 4	Sharp & Messier and, or Dodson	First	0.44	22.3	F. W. & Bessie L. Bush
		First	1.23	58.4	W. H. & Elizabeth F. Hussa
		First	3.33	163.7	Kate M. Street
6	Bush	First	0.40	20.0	F. W. & Bessie L. Bush
9 and, or 10	Buck North and, or Buck South	Second	1.00	76.6	E. R. & Hattie E. Tyeryar
3 and, or 4	Sharp & Messier and, or Dodson	Second	0.70	36.1	F. W. & Bessie L. Bush
		Second	2.07	104.3	W. H. & Elizabeth F. Hussa
7, 8, 9 and or 10	Pfenninger South Pfenninger North Buck North, and or Buck South	Second	1.00	75.2	E. R. & Hattie E. Tyer- yar
		Second	1.00	79.7	W. H. & Elizabeth F. Hussa
14	Street	Third	2.75	218.4	S. V. Street
7, 8, 9, 10 11, and 12	Pfenninger Channel (6 ditches)	Third	2.30	183.1	E. R. & Hattie E. Tyeryar
11	Benner	Third	1.05	81.1	Mrs. M. L. Benner
14	Street	Fourth	0.85	66.1	W. B. & Letitia Bord- well
13	Roys	Fifth	0.80	62.6	W. H. & Barbara Simson
2	Espil	Fifth	0.65	31.3	Martin Espil and Lucie Espil
5	House	Fifth	1.00	49.6	Est. of Daniel House
TOTALS			29.37	1692.9	

SCHEDULE 3

DESCRIPTION OF POINTS OF DIVERSION OF DITCHES DIVERTING FROM DEEP CREEK STREAM SYSTEM

Benner Ditch

At a point (designated on Division of Water Resources Map as Diversion 11) which bears approximately S $40^{\circ} 15'$ E, approximately 390 feet distant from the west quarter corner of Section 15, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 15.

Benner Lower Collecting Ditch

At a point (designated on Division of Water Resources Map as Diversion 16) which bears approximately S. $63^{\circ} 30'$ E, approximately 2210 feet distant from the west quarter corner of Section 15, T 42 N, R 16 E, M.D.B. & M. and being within Lot 3 of said Section 15.

Benner Upper Collecting Ditch

At a point (designated on Division of Water Resources Map as Diversion 15) which bears approximately S. $53^{\circ} 30'$ E, approximately 2290 feet distant from the west quarter corner of Section 15, T 42 N, R 16 E, M.D.B. & M. and being within Lot 4 of said Section 15.

Buck Lower Ditch

At a point (designated on Division of Water Resources Map as Diversion 12) which bears approximately S. $19^{\circ} 45'$ E, approximately 490 feet distant from the west quarter corner of Section 15, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 15.

Buck North Ditch

At a point (designated on Division of Water Resources Map as Diversion 9) which bears approximately N. $35^{\circ} 30'$ E, approximately 820 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16.

Buck South Ditch

At a point (designated on Division of Water Resources Map as Diversion 10) which bears approximately N. $38^{\circ} 15'$ E, approximately 830 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 16.

Bush Ditch

At a point (designated on Division of Water Resources Map as Diversion 6) which bears approximately S. $59^{\circ} 00'$ E, approximately 2150 feet distant from the northeast corner of Section 17, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 17.

Company Ditch

At a point (designated on Division of Water Resources Map as Diversion 1) which bears approximately N. $55^{\circ} 00'$ E, approximately 300 feet distant from the West quarter corner of Section 18, T 42 N, R 16 E, M.D.B. & M. and being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 18.

Dodson Ditch

At a point (designated on Division of Water Resources Map as Diversion 4) which bears approximately S. $21^{\circ} 30'$ E, approximately

1130 feet distant from the center of Section 18, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18.

Espil Ditch

At a point (designated on Division of Water Resources Map as Diversion 2) which bears approximately N. 12° 30' E, approximately 630 feet distant from the southwest corner of Section 18, T 42 N, R 16 E, M.D.B. & M. and being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 18.

House Ditch

At a point (designated on Division of Water Resources Map as Diversion 5) which bears approximately S. 37° 00' E, approximately 1110 feet distant from the center of Section 18, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18.

Pfenninger North Ditch

At a point (designated on Division of Water Resources Map as Diversion 8) which bears approximately N. 44° 15' W, approximately 1820 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 16.

Pfenninger South Ditch

At a point (designated on Division of Water Resources Map as Diversion 7) which bears approximately N. 45° 00' E, approximately 1900 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 16.

Roys Ditch

At a point (designated on Division of Water Resources Map as Diversion 13) which bears approximately N. 30° 30' E, approximately 1980 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 16.

Sharp-Messier Ditch

At a point (designated on Division of Water Resources Map as Diversion 3) which bears approximately N. 59° 00' E, approximately 1350 feet distant from the southwest corner of Section 18, T 42 N, R 16 E, M.D.B. & M. and being within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18.

Simson Collecting Ditch

At a point (designated on Division of Water Resources Map as Diversion 17) which bears approximately S. 86° 15' E, approximately 1330 feet distant from the northwest corner of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 16.

Street Ditch

At a point (designated on Division of Water Resources Map as Diversion 14) which bears approximately N. 28° 30' E, approximately 1660 feet distant from the center of Section 16, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 16.

Street North Collecting Ditch

At a point (designated on Division of Water Resources Map as Diversion 19) which bears approximately N. 16° 00' E, approximately 2450 feet distant from the southwest corner of Section 9, T 42 N, R 16 E, M.D.B. & M. and being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 9.

Street South Collecting Ditch

At a point (designated on Division of Water Resources Map as Diversion 18) which bears approximately N. $51^{\circ} 15'$ E, approximately 1790 feet distant from the southwest corner of Section 9, T 42 N, R 16 E, M.D.B. & M. and being within the $SW\frac{1}{4}$ $SW\frac{1}{4}$ of said Section 9.

SCHEDULE 4

CONTINUOUS FLOW ALLOTMENTS TO VARIOUS PARTIES FROM
DEEP CREEK AND ITS TRIBUTARIES

Name of Owner	Continuous Flow Allotment Cubic Feet per Second
A. L. Baty and Rose Baty	4.32
Mrs. M. L. Benner	1.05
W. B. Bordwell and Letitia Bordwell	0.85
F.E. Bush and Bessie L. Bush	1.70
Estate of Sam Cressler	0.16
Estate of Daniel House	1.00
Martin Espil and Lucie Espil	0.65
Guy W. Gooch and Rhoda A. Gooch	0.34
Estate of Gertrude Gooch	0.65
Walter H. Hussa and Elizabeth F. Hussa	4.30
B. H. Simson and Barbara Simson	0.80
Kate M. Street	3.33
Kate M. Street and S. V. Street ✓	2.08
S. V. Street ✓	2.75
Alfred K. Sweet and Marion F. Sweet	1.04
E. R. Tyeryar and Hattie E. Tyeryar	4.30
Gladys L. Vernon	0.05
TOTAL	29.37

2.08
2.75
0.65